

FILE NO. A15-0139

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against KEVIN KENNETH SHOEBERG,
a Minnesota Attorney,
Registration No. 204535.

**SUPPLEMENTARY PETITION
FOR DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of a January 12, 2015, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

THIRD COUNT

JoAnne M. Alexander Matter

1. JoAnne M. Alexander (Alexander) retained respondent on September 10, 2012, for representation in a dissolution of marriage against Allan J. Woloskie. Alexander was then known as JoAnne M. Woloskie.
2. Alexander and Woloskie were married on July 16, 2004, and separated on September 2, 2012.

3. Respondent prepared a summons and petition for dissolution of marriage on September 21, 2012. Respondent had the summons and petition served on Woloskie in Indiana, where Woloskie had relocated, on September 29, 2012.

4. Woloskie worked for Ford Motor Company before the marriage and is still employed there. Among the marital assets were Woloskie's United Auto Workers pension plan and a 401(k) retirement savings plan with Ford, and Alexander's 401(k) retirement savings plan with Fidelity.

5. The Woloskies' marital home in Woodbury was in Alexander's name only, as were the two mortgages against the home. Before the dissolution was final, Woloskie moved to Indiana and purchased a home only in his name.

6. In May 2013, Alexander gave respondent \$400 to pay for a valuation of Woloskie's pension. Alexander told respondent she wanted to know what the value of the pension was in order to help her decide how to settle the division of assets. Respondent agreed and said he would have the pension valued.

7. Respondent filed the summons and petition with the court on October 14, 2013. Woloskie retained attorney Jeffrey Fenske. The court held an initial case management conference on December 31, 2013, and issued a scheduling order on April 24, 2014. Trial was scheduled for July 2, 2014. Discovery was required to be completed by May 30, 2014.

8. Alexander, Woloskie, and their counsel signed a stipulated judgment and decree to settle the dissolution case on July 2, 2014. Respondent filed the stipulated judgment and decree on July 10, 2014. Judgment was entered by the court on July 14, 2014.

9. Respondent obtained a copy of the judgment and decree from the court shortly after it was filed. Respondent did not provide Alexander with a copy of it until September 2014. Alexander, who needed a copy of the judgment and decree for her insurance at work, picked up a copy of it from respondent's office at that time.

10. Alexander and Woloskie were each awarded their own 401(k) plans in the judgment and decree. Alexander was also awarded a \$22,500 property settlement from Woloskie that was to be paid from Woloskie's 401(k) plan within 30 days of entry of the judgment and decree, or by August 13, 2014. If necessary, a separate order was to be used.

11. Alexander was also awarded either an additional \$10,000 as a property settlement from Woloskie's 401(k) plan or one-half of the value of his pension that accrued from the date of the marriage through June 20, 2014. The choice was Alexander's to make, but she could not make an informed and intelligent choice without knowing the value of Woloskie's pension. If necessary, a Qualified Domestic Relations Order (QDRO) was to be used to make the transfer to Alexander.

12. Other than advising Alexander that property settlements are generally not taxable, respondent did not communicate with Alexander or advise her about the tax and penalty consequences of receiving a property settlement payment from Woloskie's 401(k). Alexander was unaware of the tax consequences until after the dissolution of marriage was final.

13. After the dissolution became final, Woloskie's 401(k) plan administrator notified respondent that distributions from the plan to Alexander would have income tax consequences and possibly a penalty. In order for Alexander to net \$22,500 from Woloskie's 401(k) after taxes and a probable penalty, approximately \$33,500 would have to be disbursed. Woloskie declined to pay any portion of the taxes and penalty and asserted that they are Alexander's responsibility. As of late January 2015, Alexander had not received any property settlement payments from Woloskie or his 401(k) plan.

14. Despite Alexander's reminders to respondent to have Woloskie's pension valued, respondent did not submit it for valuation until December 2014. As of January 2015, an evaluation had not yet been completed.

15. Early in respondent's representation of Alexander, he agreed to help her resolve a judgment against her in favor of Citibank, who held and later foreclosed a second mortgage on the Woloskies' home in Woodbury. Citibank had sued Alexander and obtained a judgment against Alexander in the amount of \$37,533.38 on November 1, 2012. Although Citibank agreed to forgive the debt in December 2012, the judgment was filed in court and was affecting Alexander's credit rating.

16. At respondent's suggestion, Alexander considered filing bankruptcy but discovered it was not feasible because the debt to Citibank was her only debt. Alexander reported this to respondent.

17. Alexander reminded respondent a few times about the Citibank debt problem including in an email dated February 5, 2014, but respondent took no action. Alexander got tired of waiting for respondent to take action. In October 2014, Alexander took time off from work and went to the courthouse and county recorder's office to see about removing the judgment against her from the records. She was unable to do so.

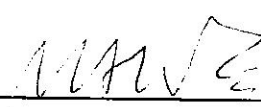
18. On or just before October 17, 2014, Alexander mailed a complaint against respondent to the Director's Office. Among Alexander's allegations was that she had paid respondent \$1,100 to handle the Citibank debt matter and that he failed to do so. On November 3, 2014, the Director mailed a copy of Alexander's complaint along with a notice of investigation to respondent's counsel.

19. In December 2014 or January 2015, respondent contacted counsel for Citibank about the judgment against Alexander. On January 12, 2015, counsel for Citibank executed a full satisfaction of the judgment against Alexander. It was filed in Washington County District Court on January 20, 2015, and the public record now shows the judgment as satisfied.

20. Respondent's conduct violated Rules 1.1, 1.3, and 1.4(a)(3), Minnesota Rules of Professional Conduct.

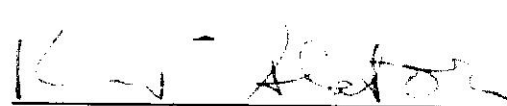
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: February 10, 2015.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952


and



KEVIN T. SLATOR
SENIOR ASSISTANT DIRECTOR
Attorney No. 204584

This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: February 16, 2015.



JUDITH M. RUSH
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD